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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,634	10/07/2005	Martyn Vincent Twigg	JMYT-347US	2199
23122	7590	12/11/2007		
RATNERPRESTIA			EXAMINER	
P O BOX 980			NGUYEN, TU MINH	
VALLEY FORGE, PA 19482-0980				
			ART UNIT	PAPER NUMBER
			3748	
			MAIL DATE	DELIVERY MODE
			12/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/527,634

Applicant(s)

TWIGG ET AL.

Examiner

Tu M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 13-21, 25, 30-34 and 36-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 13-21, 25, 30-34, 36-38, 40, 41 and 43-47 is/are rejected.
- 7) ☒ Claim(s) 3, 39 and 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20070611, 20070917.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. An Applicant's Request for Continued Examination (RCE) filed on September 17, 2007 has been entered. Per instruction from Applicant, a Preliminary Amendment filed on October 15, 2007 has been entered. Claims 1, 3, 15, 17-21, 25, 36, 39, and 40 have been amended; and claims 41-47 have been added. Overall, claims 1-3, 13-21, 25, 30-34, and 36-47 are pending in this application.

Drawings

2. The drawings filed on October 15, 2007 have been approved for entry.

Claim Objections

3. Claim 39 is objected to because this claim should depend on claim 36. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1, 13-21, 25, 34, 36-38, 40, 41, and 43-47 are rejected 35 U.S.C. 103(a) as being unpatentable over Deeba (U.S. Patent 6,912,847).**

Re claims 1, 34, 36, 37, 41, 43, 44, and 47, as shown in Figure 2, Deeba discloses a system and a process for operating said apparatus, the system comprising:

- a diesel engine operable in a first, normal running mode (low load mode) to produce exhaust gas, and operable in a second mode (high load mode or higher temperature mode), wherein the second mode, a value of at least one measurable parameter (exhaust gas temperature) indicative of a condition of the engine is outside a pre-determined range;

- means (fuel injector not shown but obviously must have) to switch engine operation between the two modes; and

- an exhaust system disposed downstream of the diesel engine for receiving the exhaust gas therefrom, the exhaust system comprising a catalysed component comprising: (1) a flow-through, non-filtered substrate monolith (12) comprising a palladium (Pd) catalyst supported on a first support material (ceramic carrier) associated with at least one base metal promoter (cerium oxide) (see line 59 of column 8 to line 14 of column 9) and (2) a second substrate (15) comprising a filter which is disposed a platinum (Pt) catalyst (34) (see Figure 5 and lines 2-13 of column 10),

wherein the substrate monolith (12) is upstream of the filter (15) and the catalysed component is catalysed soot filter (15) having an oxidation catalyst (34).

Deeba, however, fails to disclose that the second mode produces an exhaust gas comprising an increased level of carbon monoxide (CO) relative to the exhaust gas produced in the first mode.

It is well known to those with ordinary skill in the art that in a typical diesel engine such as the one in Deeba, an engine air-fuel ratio during a high engine load condition is at a lower

value than that during a low engine load condition, wherein the lower value air-fuel ratio indicates a larger fuel amount relative to an air amount. Because of this, a CO level for a diesel engine during a high engine load is larger than a CO level during a low engine load. Thus, such disclosure by Deeba is notoriously well known in the art so as to be proper for official notice.

Re claim 13, the system of Deeba further comprises an engine control means, wherein the engine control means comprises an engine control unit (not shown but obviously must have).

Re claim 14, in the system of Deeba, the means for switching between the two modes switches between the first mode and the second mode when the temperature of the supported Pt catalyst is $< 250^{\circ}\text{C}$ (see at least lines 6-13 of column 14).

Re claim 15, in the system of Deeba, the Pd catalyst and the Pt catalyst are both disposed on the same support material (ceramic carrier).

Re claims 16-21, in the system of Deeba, the at least one base metal promoter is selected from a reducible oxide, wherein the at least one reducible oxide is selected from the group consisting of MnO_2 , Mn_2O_3 , Fe_2O_3 , SnO_2 , CuO , CoO , and CeO_2 and mixtures thereof (see lines 10-12 of column 9), wherein the reducible oxide is dispersed on the first support material (ceramic carrier).

Re claims 25 and 40, in the system and process of Deeba, the first support material is selected from the group consisting of alumina, silica-alumina, ceria, magnesia, titania, zirconia, a zeolite, and mixtures, composite oxides or mixed oxides of any two or more thereof (see lines 3-6 of column 9).

Re claim 38, in the system of Deeba, the Pt catalyst is supported on a second support material (lines 17-19 of column 8).

Re claim 45, in the system of Deeba, the substrate monolith further comprises a second platinum (Pt) catalyst (see lines 3-14 of column 9).

Re claim 46, in the system of Deeba, the catalysed component is the NO oxidation catalyst whereby the filter is located downstream of the catalysed component (see lines 15-23 of column 9).

6. Claims 2, 32 and 30, 31, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deeba as applied to claims 1 and 38, respectively, above, in view of legal precedent.

Re claim 2, the system of Deeba discloses the invention as cited above, however, fails to disclose that the engine is configured to produce exhaust gas comprising more than 2000 ppm CO when running in the second mode.

Deeba disclose the claimed invention except for specifying an optimum range of carbon monoxide concentration of more than 2000 ppm to regenerate the catalysed soot filter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a specific optimum range of CO concentration, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Re claims 30-33, the system of Deeba discloses the invention as cited above, however, fails to disclose that the catalysed component comprises from 30 to 300 gr/ft³ Pd and from 30 to 300 gr/ft³ Pt, a supported catalyst part of the catalysed component contains from 0.1 to 30.0% by combined weight of Pt and Pd based on the combined total weight of the supported Pd catalyst and the supported Pt catalyst, the supported catalyst part of the catalysed component contains a

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weight ratio of from 95:5 to 10:90 Pd :Pt, or the supported catalysts contain from 0.1 to 10% Pt by weight and from 0.1 to 20% Pd by weight based on the combined total weight of the supported catalysts.

Deeba disclose the claimed invention except for specifying an optimum range of Pt and Pd densities, percentage weight, and weight ratio. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a specific optimum range of Pt and Pd densities, percentage weight, and weight ratio, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Allowable Subject Matter

7. Claims 3, 39, and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

8. The IDS (PTO-1449) filed on June 11 and September 17, 2007 have been considered. An initialized copy of each is attached hereto.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of three patents: Saito et al. (U.S. Patent 6,829,889), Akama et al. (U.S. Patent 6,916,450), and Asanuma (U.S. Patent 6,978,603) further disclose a state of the art.

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Communication

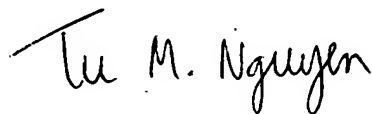
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tu Nguyen whose telephone number is (571) 272-4862.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas E. Denion, can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TMN

December 7, 2007



Tu M. Nguyen

Primary Examiner

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New Sheet

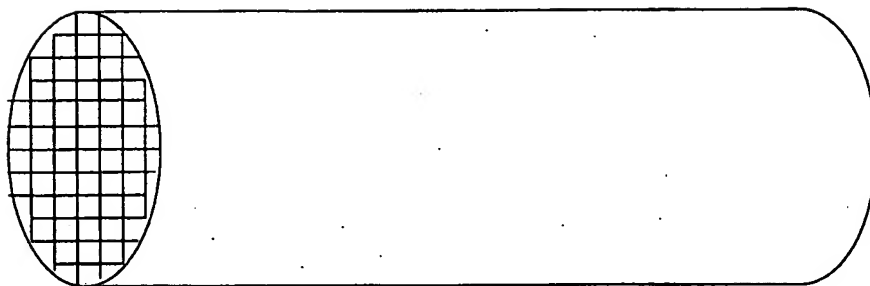


FIG. 1

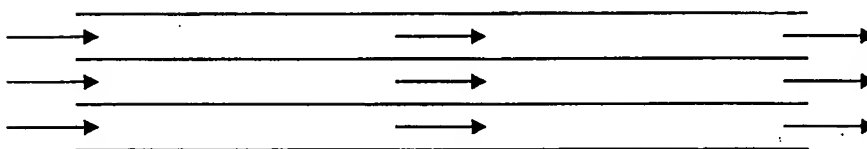


FIG. 2

Approved for Entry
12/7/2007
TMN